

Finance (No. 3) Bill

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Sassoon has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Finance (No. 3) Bill are compatible with the Convention rights.

AMENDMENTS

The following amendments should be read together with House of Commons Bill 200 – I and 200 – II to which they relate. These amendments have been made by the House of Commons to that Bill.

Clause 87

- 1 Page 48, line 16, leave out subsection (4)

Schedule 7

- 2 Page 166, leave out line 18 and insert “day specified in the election as the day on which it takes effect (which must be later than the day on which the election is made).”
- 3 Page 166, line 21, leave out subsection (3) and insert –
- “(2A) An election under section 9A(2)(a) may be revoked by notice of the revocation being given to an officer of Revenue and Customs before the election takes effect.
- (3) Subject to that, an election has effect until immediately before –
- (a) the day on which another election by X takes effect, or
- (b) the day on which a revocation event occurs,
- (whichever first occurs).”
- 4 Page 166, line 41, at end insert –
- “(5A) Subsections (5B) and (5C) apply if a period of account of X (“the straddling period of account”) begins before, and ends on or after, the day on which –
- (a) an election under section 9A(2)(a) takes effect, or
- (b) a revocation event occurs.
- (5B) It is to be assumed, for the purposes of this Chapter, that the straddling period of account consists of two separate periods of account –
- (a) the first beginning with the straddling period of account and ending immediately before that day, and

(b) the second beginning with that day and ending with the straddling period of account,
and X's profits and losses are to be computed accordingly for the purposes of corporation tax.

(5C) For those purposes, it is to be assumed –

(a) that X prepares its accounts for each of the two periods in the same currency, and otherwise on the same basis, as it prepares its accounts for the straddling period of account, and

(b) that if the accounts for the straddling period of account, in accordance with generally accepted accounting practice, identify a currency as X's functional currency, the accounts for each of the two periods do likewise."

5 Page 167, line 28, leave out from "but" to end of line 37 and insert "for a change in the company's functional currency (within the meaning of section 17(4) of that Act) as between –

(a) the period of account of the company in which the gain or loss arises, and

(b) a period of account of the company ending in the 12 months immediately preceding that period."

6 Page 167, line 44, leave out from "but" to end of line 9 on page 168 and insert "for a change in the company's functional currency (within the meaning of section 17(4) of that Act) as between –

(a) the period of account of the company in which the gain or loss arises, and

(b) a period of account of the company ending in the 12 months immediately preceding that period."

7 Page 168, line 14, at end insert –

"() Where an election made by a company before 27 June 2011 does not specify the day on which it takes effect, the election is to be treated as if it specified the first day of the first period of account of the company beginning after the election was made."

Schedule 13

8 Page 209, line 39, leave out from "company" to end of line 40 and insert "beginning on or after the relevant day.

(1A) "The relevant day" is the day on which, at the time of the election, the accounting period following that in which the election is made is expected to begin.

(1B) Subsection (1C) applies if an accounting period of the company ("the straddling period") begins before, and ends on or after, the relevant day.

(1C) It is to be assumed, for the purposes of the Corporation Tax Acts, that the straddling period consists of two separate accounting periods –

(a) the first beginning with the straddling period and ending immediately before the relevant day, and

(b) the second beginning with that day and ending with the straddling period.

(1D) Where for those purposes it is necessary to apportion the profits and losses for the straddling period to different parts of the period, that apportionment is to be made on a just and reasonable basis.”

9 Page 209, line 41, leave out from “before” to end of line 42 and insert “the relevant day.”

Schedule 19

10 Page 315, line 34, leave out paragraph (b) and insert –

“(b) M, or another member of the relevant group, has assets which correspond to liabilities which N, or another entity which is not a member of the group, has to M or (as the case may be) that other member (“N’s liabilities”),”

11 Page 315, line 36, leave out “between M and N”

12 Page 315, line 37, at end insert “, and liabilities of other members of the group to N or another entity which is not a member of the group,”

13 Page 316, line 1, leave out paragraph (d) and insert –

“(d) “the netting event occurs” if the insolvency or bankruptcy of –
(i) M, or another member of the relevant group which has assets which correspond to a liability covered by the provision mentioned in sub-paragraph (1)(c), or
(ii) N, or another entity which is not a member of the group and which has such a liability,
gives rise to the termination of any arrangements under which such a liability arises.”

14 Page 316, line 23, leave out “M’s assets” and insert “the assets of M, or of another member of the relevant group,”

15 Page 316, line 24, at end insert –

“() But if this paragraph applies in relation to more than one member of the relevant group, no part of an asset may be included in the net settlement assets of more than one such member.”

16 Page 320, line 11, leave out paragraph (b) and insert –

“(b) M, or another entity within sub-paragraph (9), has assets which correspond to liabilities which N, or another entity not within that sub-paragraph, has to M or (as the case may be) to that other entity within that sub-paragraph (“N’s liabilities”),”

17 Page 320, line 13, leave out “between M and N”

18 Page 320, line 14, at end insert “, and liabilities of other entities within sub-paragraph (9) to N or another entity which is not within that sub-paragraph,”

19 Page 320, line 35, leave out paragraph (e) and insert –

“(e) “the netting event occurs” if the insolvency or bankruptcy of –
(i) M, or another entity within sub-paragraph (9) which has assets which correspond to a liability covered by the provision mentioned in sub-paragraph (8)(c), or
(ii) N, or another entity not within sub-paragraph (9) which has such a liability,

gives rise to the termination of any arrangements under which such a liability arises.”

- 20 Page 321, line 6, leave out “M’s assets” and insert “the assets of M, or of another entity within sub-paragraph (9),”
- 21 Page 321, line 7, at end insert –
“() But –
(a) if N’s net settlement liabilities include liabilities of a relevant foreign bank covered by paragraph 17(17), X% (as determined at Step 2 in paragraph 24(1)) of the assets corresponding to the liabilities of the relevant foreign bank are to be disregarded for the purposes of sub-paragraph (14), and
(b) if sub-paragraph (12) applies in relation to more than one entity within sub-paragraph (9), no part of an asset may be included in the net settlement assets of more than one such entity.”
- 22 Page 324, line 38, leave out paragraph (b) and insert –
“(b) M, or another entity within sub-paragraph (9), has assets which correspond to liabilities which N, or another entity not within that sub-paragraph, has to M or, as the case may be, to that other entity within that sub-paragraph (“N’s liabilities”),”
- 23 Page 324, line 40, leave out “between M and N”
- 24 Page 324, line 41, at end insert “, and liabilities of other entities within sub-paragraph (9) to N or another entity which is not within that sub-paragraph,”
- 25 Page 325, line 15, leave out paragraph (e) and insert –
“(e) “the netting event occurs” if the insolvency or bankruptcy of –
(i) M, or another entity within sub-paragraph (9) which has assets which correspond to a liability covered by the provision mentioned in sub-paragraph (8)(c), or
(ii) N, or another entity not within sub-paragraph (9) which has such a liability,
gives rise to the termination of any arrangements under which such a liability arises.”
- 26 Page 325, line 36, leave out “M’s assets” and insert “the assets of M, or of another entity within sub-paragraph (9),”
- 27 Page 325, line 37, at end insert –
“() But –
(a) if N’s net settlement liabilities include liabilities of a relevant foreign bank covered by paragraph 19(17), X% (as determined at Step 2 in paragraph 24(1)) of the assets corresponding to the liabilities of the relevant foreign bank are to be disregarded for the purposes of sub-paragraph (14), and
(b) if sub-paragraph (12) applies in relation to more than one entity within sub-paragraph (9), no part of an asset may be included in the net settlement assets of more than one such entity.”
- 28 Page 336, line 33, at end insert –

“Netting agreements

- (1) The Treasury may by order add to, repeal or otherwise amend any of paragraphs 16, 18(8) to (16), 20(8) to (16), 22 and 25.
- (2) An order under this paragraph may make consequential amendments of this Schedule.
- (3) An order under this paragraph may have retrospective effect in relation to—
 - (a) any chargeable period in which the order is made, or
 - (b) in the case of an order made on or before 31 December 2011, any chargeable period ending on or after 1 January 2011.
- (4) Orders under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing an order under this paragraph may not be made unless a draft has been laid before, and approved by a resolution of, the House of Commons.”

Schedule 25

- 29** Page 390, line 29, leave out “other than excluded matters”
- 30** Page 390, line 31, leave out “other than excluded matters”
- 31** Page 390, line 32, leave out sub-paragraphs (3) and (4)
- 32** Page 391, line 18, leave out sub-paragraph (4)
- 33** Page 393, line 15, at end insert—
“(ca) if the foreign claim relates to an agricultural levy and the steps are ones to be taken in or in relation to Scotland, the Commissioners concurrently with the Scottish Ministers;”
- 34** Page 393, line 42, leave out sub-paragraph (2)
- 35** Page 395, line 26, leave out sub-paragraph (3)